

**MEMORANDUM OF LEGAL INTERPRETATION**

To: The Members and Personnel of the  
Department of Financial Institutions

From: The Policy and Interpretation Committee

Re: Automated Teller Machines  
Taking Deposits

Date: December 15, 1987  
**Revised: August 8, 1996**

A question has been presented to the Policy and Interpretation Committee regarding whether an automated teller machine may receive deposits as a routine banking transaction without violating the Indiana branching statutes.

**ANALYSIS:** Yes, the 1985 General Assembly specifically provided that a state chartered bank may establish automated teller machines anywhere in the State of Indiana without approval from the Department of Financial Institutions so long as they notify the Department thirty (30) days in advance of their opening. The relevant statute is IC 28-2-13-22 and reads as follows:

"A state bank is entitled to open or establish an automated teller machine in any location within the state. An automated teller machine may be owned or operated individually by any state bank or jointly on a cost sharing or fee basis by a state bank and any other financial institution. At least thirty (30) days before a state bank establishes or changes the location of an automated teller machine, the state bank shall give the Department notice of the establishment or relocation of the machine. The notice must be in the form and contain the information prescribed by the Department."

The above statute clearly authorizes the existence of automated teller machines. The General Assembly obviously is treating automated teller machines as something different than bank branches because they have authorized their location to be beyond the county of the home office of the state chartered bank or a contiguous county, and have not required Department approval. Nor is there a requirement for a state bank to have \$200,000 in capital for each automated teller machine as there is for branches or the showing that the convenience and advantage of the public will be served. There are less stringent requirements for the establishment of automated teller machines than there are for the establishment of bank branches.

The most logical question to ask next is, what activities are permissible for an automated teller machine? IC 28-2-13-4 defines an automated teller machine as follows:

"As used in this chapter, 'automated teller machine' means unmanned electronic or mechanical equipment that performs routine banking transactions for the public."

The above quoted statute is saying that an automated teller machine may participate in any activity that is considered routine for a bank and trust company. Among other things, a commercial bank is a depository of money for the public. Banks routinely accept deposits from the public everyday and such activity would not be considered as unusual transactions. Rather, accepting deposits would be considered very routine, and as such, would be considered a type of transaction that would be permissible for an automated teller machine according to IC 28-2-13-4.

The final issue to explore is, would accepting deposits by an automated teller machine be in conflict with those activities that are reserved for bank branches? No, the Legislature has determined that the term 'branch' cannot be applied to automated teller machines. IC 28-2-13-7 defines what a branch is and what it is not. The statute reads as follows:

"As used in this chapter, 'branch' means any office, agency, mobile unit, messenger service, or other place of business at which deposits are received, checks paid, or money lent. However, the term does not include: (1) the principal office of a bank; (2) the principal office of an affiliate; (3) a branch of an affiliate; (4) an automated teller machine; (5) a night depository; or (6) a temporary facility authorized in IC 28-2-13-22.5."

**CONCLUSION:** A state chartered bank may establish an automated teller machine and may receive deposits or engage in any other type of transactions that are considered routine by a commercial bank without violating the branching laws of Indiana. This may be done anywhere in Indiana without approval from the Department nor compliance with any of the statutes pertaining to branching since automated teller machines are not considered branches.